

§ 19.91

and locations (i.e., buildings, rooms or areas) where spirits in cases are stored.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1357, as amended (26 U.S.C. 5203); sec. 806, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202))

GAUGING OF SPIRITS, WINES OR ALCOHOLIC FLAVORING MATERIALS

§ 19.91 Gauging.

(a) *Gauging of spirits and wine.* Gauges shall be made by the proprietor. However, the regional director (compliance) may require that such gauges be made in the presence of and be verified by an ATF officer. Gauges of spirits, denatured spirits, or wine shall be made in accordance with 27 CFR part 30 and as provided in this part. However, the gauge for wine that is to be transferred to a bonded wine cellar shall be recorded by kind and percent of alcohol by volume. When bulk spirits, denatured spirits, or wines are to be volumetrically measured, the measurement shall be in a tank or bulk conveyance for which a calibration chart is provided, by a meter approved under § 19.277, or, when approved by the Director, by other devices or methods. Calibration charts shall be certified as accurate by persons qualified to calibrate tanks or bulk conveyances. When spirits in bottles are gauged, the gauge may be established on the basis of legible case markings and label information, if (1) the bottles are full, and (2) there is no evidence that the bottles have been tampered with.

(b) *Gauging of alcoholic flavoring materials.* Each alcoholic flavoring material shall be gauged when dumped, except that when received from a manufacturer in a closed nonporous bottle, can, or package such material may be gauged by using the proof derived from the container label or a related statement of the proof from the manufacturer. When proof is determined from a label or manufacturer's statement, the proprietor shall periodically test a sufficient number of samples of the alcoholic flavoring material to verify the accuracy of the proof so determined and shall record the results of those tests on the gauge record. The regional director (compliance) may require that all alcoholic flavoring materials be

27 CFR Ch. I (4-1-02 Edition)

gauged by the methods provided in 27 CFR part 30.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1396, as amended (26 U.S.C. 5204, 5559))

§ 19.92 When gauges are required.

(a) *Initial proof.* Except for a gauge required by § 19.383 or § 19.517 or in any case where the proof changes as a result of a storage or processing operation, the initial determination of proof for distilled spirits, wine, or eligible flavors may be used whenever a subsequent gauge is required by this part to be made at the same plant.

(b) *Required gauges.* Spirits, wine and alcoholic flavoring materials shall be gauged whenever required by this part. Such gauges include:

- (1) Entered for deposit,
- (2) Filled into packages from storage tanks,
- (3) Transferred or received in bond,
- (4) Transferred between operational accounts,
- (5) Mixed in the manufacture of a distilled spirits product,
- (6) Reduced in proof prior to commencement of bottling,
- (7) Destroyed,
- (8) Removed or withdrawn from bond,
- (9) Returned to bond, or
- (10) As otherwise required by the regional director (compliance).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1396, as amended (26 U.S.C. 5204, 5559))

[T.D. ATF-199, 50 FR 9160, Mar. 6, 1985, as amended by T.D. ATF-297, 55 FR 18063, Apr. 30, 1990]

§ 19.93 Quantity determination of spirits in bond.

Where bulk spirits in bond are gauged for determination of tax, or are gauged in packages, the quantity shall be determined by weight pursuant to the provisions of 27 CFR part 30. In all other instances where spirits are gauged in bond, gauged for denaturation, or are gauged for transfer in bond or for withdrawal from bond free of tax or without payment of tax, the quantity may be determined by weight or volume. Volumetric determinations of